

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RUZICKA ELECTRIC, INC.

and

Case 14--CA--21186

CONGRESS OF INDEPENDENT UNIONS

June 28, 1991
DECISION AND ORDER

By Chairman Stephens and Members Cacerot and Randabaugh
Upon charges filed by the Union on January 4, 1991,¹ as amended on

January 23, the General Counsel of the National Labor Relations Board issued a complaint on January 30 against the Company, the Respondent, alleging that it has violated Section 8(a)(1) and (2) of the National Labor Relations Act. On February 21, the Company and the Union entered into an informal settlement agreement which was approved by the Regional Director for Region 14. On April 2, the General Counsel, on behalf of the Board and by the Regional Director, issued an order vacating and setting aside settlement agreement, amended complaint and notice of hearing. The Order set aside the settlement agreement because the Company failed and refused to comply with that agreement. The amended complaint alleged, as previously, that the Company violated Section 8(a)(1) and (2) of the Act. Although properly served copies of the charges and of the amended complaint, the Company has failed to file an answer.

¹ Unless otherwise indicated, all dates are in 1991.

On May 2, the General Counsel filed a Motion for Default Summary Judgment. On May 7, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Company filed no response. The allegations in the amended complaint are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The amended complaint states that unless an answer is filed within 14 days of service, "all of the allegations in the [amended complaint] shall be deemed to be admitted to be true and shall be so found by the Board." Further, the undisputed allegations in the Motion for Default Summary Judgment disclose that the counsel for the General Counsel, by letter dated April 19, notified the Company that unless an answer was received by April 24, a motion for summary judgment would be filed. In the absence of good cause shown for this failure to file a timely answer, we grant the General Counsel's Motion for Default Summary Judgment.

On the entire record, the Board makes the following

Findings of Fact

I. Jurisdiction

The Company is a corporation with an office and place of business in Fenton, Missouri, where it is engaged in electrical contracting in the construction industry. During the 12-month period ending December 31, 1990, the Respondent, in the course and conduct of its business operations,

performed services valued in excess of \$50,000 for customers located within the State of Missouri, which customers, in turn, meet other than a solely indirect standard for the assertion of the Board's jurisdiction. We find that the Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

Since about September 1, 1990, the Respondent, acting through owner Thomas Ruzicka, deducted dues from employees' paychecks to be remitted to the Union notwithstanding the absence of a contract with the Union and the absence of valid employee dues-checkoff authorizations.

Accordingly, we find that the Respondent, as specified in the Conclusions of Law below, has rendered unlawful assistance and support to the Union in violation of Section 8(a)(2) and (1) of the Act.

Conclusions of Law

By deducting dues from employees' paychecks to be remitted to the Union notwithstanding the absence of a contract with the Union and the absence of valid employee dues-checkoff authorizations, the Respondent has rendered unlawful assistance and support to the Union in violation of Section 8(a)(2) and (1).

Remedy

Having found that the Respondent has engaged in an unfair labor practice, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

We shall order the Respondent to make the affected employees whole by repaying to them the amount of dues deducted from their pay plus interest to

be computed in the manner prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987).

ORDER

The National Labor Relations Board orders that the Respondent, Ruzicka Electric, Inc., Fenton, Missouri, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Deducting dues from employees' paychecks to be remitted to the Congress of Independent Unions notwithstanding the absence of a contract with the CIU and the absence of valid employee dues checkoff authorizations.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Reimburse all affected employees for dues deducted for the CIU in the manner set forth in the remedy section of this decision.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of payments to employees due under the terms of this Order.

(c) Post at its facility in Fenton, Missouri, copies of the attached notice marked "'Appendix.'"² Copies of the notice, on forms provided by the

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

Regional Director for Region 14, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. June 28, 1991

James M. Stephens, Chairman

Mary Miller Cracraft,	Member
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John N. Raudabaugh,	Member
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(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT deduct dues for the Congress of Independent Unions from your paychecks in the absence of a contract with the CIU and of valid employee dues-checkoff authorizations.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of rights guaranteed you by Section 7 of the Act.

WE WILL reimburse all affected employees for dues deducted from your pay for the CIU, with interest.

RUZICKA ELECTRIC, INC.

(Employer)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 611 North 10th Street, Suite 400, Saint Louis, Missouri 63101-1932, Telephone 314--425--4361.